

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

HJD CAPITAL ELECTRIC, INC.

Plaintiff

v.

**U.S. DEPARTMENT OF THE AIR FORCE,
U.S. DEPARTMENT OF THE ARMY, and
U.S. DEPARTMENT OF DEFENSE**

Defendants

Civil Action No. 5:19-cv-01196

AFFIDAVIT OF JANA RICHARD

Before me, the undersigned notary, on this day personally appeared Jana Richard, the affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

“My name is Jana Richard. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

1. I represent Plaintiff HJD Capital Electric, Inc. (“Plaintiff”) in this proceeding. I also represent Plaintiff (who is the claimant) in an arbitration proceeding which arises from disputes in connection with a construction project commonly known as the Renovate Building 313 project at the Joint Base San Antonio Lackland facility located in San Antonio, Texas, believed to be federal project/contract no. FA3002-08-D-0015, Task Order TG13 (hereinafter called the “Project”).
2. Attached as Exhibit A to Plaintiff’s Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of a letter dated January 23, 2018, which is Plaintiff’s first FOIA request to Defendants. I have personal knowledge of this letter because my office submitted it in the course of my representation of Plaintiff.
3. Attached as Exhibit B to Plaintiff’s Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of a letter dated April 9, 2018 from Defendant, the U.S. Department of the Air Force to Plaintiff. I have personal knowledge of this letter because my office received it in the course of my representation of Plaintiff.
4. Attached as Exhibit C to Plaintiff’s Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of a letter dated March 11, 2019, which is Plaintiff’s second FOIA request to Defendants. I have

personal knowledge of this letter because my office submitted it in the course of my representation of Plaintiff.

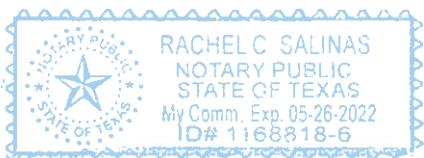
5. Attached as Exhibit D to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated March 28, 2019, from Cathy Calhoun, DAFC, FOIA/PA Manager to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.
6. Attached as Exhibit E to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated April 24, 2019 from my office to Ms. Calhoun. I have personal knowledge of this email correspondence because my office submitted it in the course of my representation of Plaintiff.
7. Attached as Exhibit F to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated April 24, 2019 from Ms. Calhoun to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.
8. Attached as Exhibit G to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of a letter dated July 10, 2019, Plaintiff's third FOIA request to Defendants. I have personal knowledge of this letter because my office submitted it in the course of my representation of Plaintiff.
9. Attached as Exhibit H to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated July 11, 2019, from Brian Austin, Ssgt, USAF FOIA Monitor of 772 ESS/PKA to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.
10. Attached as Exhibit I to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated July 22, 2019, from Teresa Corbin, Civ, SAF, WPAFB FOIA Analyst to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.
11. Attached as Exhibit J to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated August 5, 2019, from Tabatha D. Matthew, GS-09, DAF, JBSA FOIA/PA Manager to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.

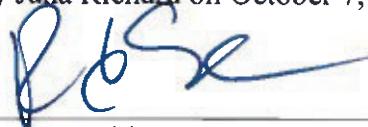
12. Attached as Exhibit K to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated August 8, 2019, from Ms. Matthew to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.
13. Attached as Exhibit L to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of a letter dated August 8, 2019, Plaintiff's fourth FOIA Request to Defendants. I have personal knowledge of this letter because my office submitted it in the course of my representation of Plaintiff.
14. Attached as Exhibit M to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of email correspondence dated September 18, 2019, from Ms. Matthew to Plaintiff. I have personal knowledge of this email correspondence because my office received it in the course of my representation of Plaintiff.
15. Attached as Exhibit N to Plaintiff's Complaint Regarding Freedom of Information Act [5 U.S.C.A. § 552] and Application for Temporary Injunction is a true and correct copy of a letter dated September 25, 2019, from Gregory Outlaw, FOIA/PA Program manager for DFAS, to Plaintiff. I have personal knowledge of this letter because my office received it in the course of my representation of Plaintiff."



Jana Richard

SWORN TO and SUBSCRIBED before me by Jana Richard on October 7, 2019.





Notary Public in and for the State of Texas

GARDNER
LAW

Thomas J. Walthall, Jr.
Shareholder

Board Certified, Construction Law
Texas Board of Legal Specialization

twalthall@gardnertx.com

January 23, 2018

FOIA Office
502 CS/SCOKF
151 J. Street East, Bldg 990, Rm 124A,
JBSA - Randolph TX 78150

Via email: 502CS.FOIAndPAworkflow.workflow@us.af.mil

RE: Freedom of Information Act Request for information concerning Contract No. FA3002-08-D-0015-TG13, Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX ("Project")
Our File No. 9299.011

To Whom It May Concern:

This firm represents HJD Capital Electric, Inc. ("HJD Capital"). Barlovento, LLC ("Barlovento") was the Prime Contractor under contract FA3002-08-D-0015-TG13 regarding the above-mentioned Project, and HJD Capital worked as Barlovento's subcontractor. We are writing in accordance with subsection C1.4.3 of DoD5400.7-R_AFMAN 33-302 and pursuant to the *United States Freedom of Information Act*. Accordingly, formal request is made for copies of the documents described in the attached Exhibit A.

We are happy to pay any reasonable costs of photocopying and sending us the requested information. If you anticipate the cost of such work will exceed \$500.00, please call me directly at (210) 733-8191 before proceeding.

Please contact me if you have any questions regarding this request. Your courtesy and cooperation in regard to this request is sincerely appreciated.

Very truly yours,

GARDNER LAW



Thomas J. Walthall, Jr.

January 23, 2018

Page 2 of 2

Exhibit A

Records Requested

The following documents are requested concerning:

Project: **Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX**
Contract No.: **FA3002-08-D-0015-TG13**
Prime Contractor: **Barlovento, LLC**

1. A true and correct copy of the Barlovento Payment Bond for the Project.
2. Any change directive, modification, change, requested change, or requested modification or other communication between the U.S. Air Force and Barlovento related to removing telecommunications work, Division 27, from the Contractors' scope of work on the Project.
3. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project.
4. The vouchers, estimates, checks, or other evidence of the U.S. Air Force's payments to Barlovento in response to Barlovento's payment applications referred to in number 3, above.



**DEPARTMENT OF THE AIR FORCE
502D AIR BASE WING
JOINT BASE SAN ANTONIO**



9 April 2018

Cathy Calhoun
502d Communications Squadron
151 J Street East
JBSA-Randolph TX 78150-4342

Mr. Thomas J. Walthall, Jr.
Gardner Law Office
745 East Mulberry Avenue Suite 500
San Antonio, TX 78212-3154

Dear Mr. Walthall

This is our final reply to your 23 January 2018 Freedom of Information Act (FOIA) request: "The following documents are requested concerning:

Project: Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX
Contract No.: **FA3002-08-D-0015-TG13**
Prime Contractor: **Barlovento, LLC**

1. A true and correct copy of the Barlovento Payment Bond for the Project.
2. Any change directive, modification, change, requested change, or requested modification or other communication between the U.S. Air Force and Barlovento related to removing telecommunications work, Division 27, from the Contractors' scope of work on the Project.
3. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project.
4. The vouchers, estimates, checks, or other evidence of the U.S. Air Force's payments to Barlovento in response to Barlovento's payment applications referred to in number 3, above.

The Office of Primary responsibility, 772nd ESS/PKA states: "Recommend Full Release for the documents associated with **FA3002-08-D-0015-TG13**. (Atch 1-4)

The Legal opinion of AFCEC/JA recommends the same.

If you decide to appeal this decision, your appeal letter must be postmarked no later than 90 calendar days after the date of this letter. If no appeal is received, or if the appeal is postmarked after the conclusion of this 90-day period, the appeal is considered closed. Include in your appeal your reasons for reconsideration and attach a copy of this letter. Address your letter as follows:



Secretary of the Air Force
THRU: 502 CS/SCOK (FOIA)
151 J Street East
JBSA-Randolph TX 78150-4342

You may contact the Air Force FOIA Public Liaison Officer, Ms. Anh Trinh, concerning this final response at Air Force FOIA Public Liaison Office, 1800 Air Force Pentagon, Washington, DC 20330-1800 or [\(703\) 614-8500](mailto:usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil). You may also seek dispute resolution services from the Office of Government Information Services, and can find information on this Office at <https://ogis.archives.gov/mediation-program/request-assistance.htm>. Using the dispute resolution services, will not affect your appeal or appeal rights.

The FOIA provides for the collection of fees based on the costs of processing a FOIA request and fee category. We have placed you in the Other category however, in this case, we have waived processing fees because they did not exceed the minimum fee threshold.

Sincerely

CATHY CALHOUN
Cathy Calhoun
FOIA/PA Manager

4 Attachments:

1. 3 Mod 2, 26 pages
2. 4 Mod 3, 33 pages
3. 5 Mod 6, 36 pages
4. Binder 1, 55 pages

GARDNER
LAW

Thomas J. Walthall, Jr.
Shareholder

Board Certified, Construction Law
Texas Board of Legal Specialization

twalthall@gardnertx.com

March 11, 2019

FOIA Office
502 CS/SCOKF
151 J. Street East, Bldg 990, Rm 124A
JBSA - Randolph TX 78150

Via email: 502CS.FOIAndPAworkflow.workflow@us.af.mil

RE: Freedom of Information Act Request for information concerning Contract No. FA3002-08-D-0015-TG13, Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX ("Project"); Original Freedom of Information Act Request #2018-01312-F; Our File No. 9299.011

To Whom It May Concern:

This firm represents HJD Capital Electric, Inc. ("HJD Capital"). Barlovento, LLC ("Barlovento") was the Prime Contractor under contract FA3002-08-D-0015-TG13 regarding the above-mentioned Project, and HJD Capital worked as Barlovento's subcontractor. We are writing in accordance with subsection C1.4.3 of DoD5400.7-R_AFMAN 33-302 and pursuant to the *United States Freedom of Information Act*. Accordingly, formal request is made for copies of the documents described in the attached Exhibit A.

We previously submitted a request for these Project documents as *Freedom of Information Act Request #2018-01312-F*. The request was approved for a full release, and we received a portion of the requested documents: the payment bond issued on the Project and its attachments, contract modifications 2, 3, and 6, and select requests for information. However, we did not receive the requested Project payment documentation. This documentation is again referenced within the attached Exhibit A for your consideration. These documents will show evidence of payments that Barlovento received on the Project for its completed work, along with its requests for same.

We are happy to pay any reasonable costs of photocopying and sending us the requested information. If you anticipate the cost of such work will exceed \$500.00, please call me directly at (210) 733-8191 before proceeding.

Please contact me if you have any questions regarding this request. Your courtesy and cooperation is sincerely appreciated.

Very truly yours,

GARDNER LAW



Thomas J. Walthall, Jr.

March 11, 2019

Page 2 of 2

Exhibit A

Records Requested

The following documents are requested concerning:

Project: Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX
Contract No.: FA3002-08-D-0015-TG13
Prime Contractor: Barlovento, LLC

1. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project.
2. The vouchers, estimates, checks, or other evidence of the U.S. Air Force's payments to Barlovento in response to Barlovento's payment applications referred to in number 1, above.

From: [CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF](#)
To: [Thomas J. Walthall, Jr.](#)
Cc: [COBURN, RAYMOND W CIV USAF AETC 502 CS/SCOK](#); [CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF](#)
Subject: FOIA Request-2019-02446-F
Date: Thursday, March 28, 2019 9:40:12 AM

Sir

The OPR that reviewed your FOIA Request has just returned a response of the following:

On 23 January 2018 under case number 2018-01312-F you submitted the same request for information. The request was completed and answered and closed on 9 April 2018 at which time you received 150 pages answering your request.

Additionally, in your new request we have been informed any additional information you are requesting dealing with payments would have to be answered by another agency. Not this office. You will need to contact Defense Finance Accounting Service (DFAS) at 800-756-4571 Option 4.

Therefore, we are closing this current request 2019-02446-F as of this writing. If you would like to receive the documents you received on 9 April 2018 please let us know. Thank you for your time.

v/r
Cathy Calhoun, DAFC
FOIA/PA Manager
502 CS/SCOK-RND
151 J Street East
JBSA-Randolph TX 78154-4339
DSN 487-2165/Commercial (210) 652-2165
DSN 487-2172/Commercial (210) 652-2172
FAX (210) 652-8152

How are we doing? Please provide your comments on our Interactive Customer Evaluation (ICE) link is: <https://ice.disa.mil/index.cfm?fa=card&sp=109248&s=1024&dep=&sc=35>



From: [Kat Creekmore](#)
To: ["CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF"](#)
Cc: [COBURN, RAYMOND W CIV USAF AETC 502 CS/SCOK](#); [Thomas J. Walthall, Jr.](#)
Subject: RE: FOIA Request-2019-02446-F
Date: Wednesday, April 24, 2019 10:12:13 AM

Good morning Ms. Calhoun,

Thank you very much for the response. We spoke with a DFAS representative and were told that they can only give information directly to the contractee (i.e. the Prime Contractor). Since we represent a subcontractor on the project, he said that he was not able to help us. The representative recommended that I contact you again for the payment documentation. What is needed from our office to obtain these documents? Is there someone else we should speak with? I appreciate any help you can provide. Please feel free to give me a call to discuss this if it's more convenient.

Thank you,

Kat Creekmore

Paralegal
Gardner Law
745 E Mulberry Ave, Ste 500
San Antonio, TX 78212
(210) 733-8191 | (210) 733-5538 (Fax)
www.gardnertx.com

From: CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF <cathy.calhoun.1@us.af.mil>
Sent: Thursday, March 28, 2019 9:40 AM
To: Thomas J. Walthall, Jr. <twalthall@gardnertx.com>
Cc: COBURN, RAYMOND W CIV USAF AETC 502 CS/SCOK <raymond.coburn.2@us.af.mil>; CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF <cathy.calhoun.1@us.af.mil>
Subject: FOIA Request-2019-02446-F

Sir

The OPR that reviewed your FOIA Request has just returned a response of the following:

On 23 January 2018 under case number 2018-01312-F you submitted the same request for information. The request was completed and answered and closed on 9 April 2018 at which time you received 150 pages answering your request.

Additionally, in your new request we have been informed any additional information you are requesting dealing with payments would have to be answered by another agency. Not this office. You will need to contact Defense



Finance Accounting Service (DFAS) at 800-756-4571 Option 4.

Therefore, we are closing this current request 2019-02446-F as of this writing. If you would like to receive the documents you received on 9 April 2018 please let us know. Thank you for your time.

v/r

Cathy Calhoun, DAFC

FOIA/PA Manager

502 CS/SCOK-RND

151 J Street East

JBSA-Randolph TX 78154-4339

DSN 487-2165/Commercial (210) 652-2165

DSN 487-2172/Commercial (210) 652-2172

FAX (210) 652-8152

How are we doing? Please provide your comments on our Interactive Customer Evaluation (ICE) link is: <https://ice.disa.mil/index.cfm?fa=card&sp=109248&s=1024&dep=&sc=35>

From: [CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF](#)
To: [Kat Creekmore](#)
Cc: [CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKF](#); [COBURN, RAYMOND W CIV USAF AETC 502 CS/SCOK](#); [Thomas J. Walthall, Jr.](#)
Subject: FOIA Case 2019-02446-F
Date: Tuesday, May 7, 2019 7:48:07 AM
Attachments: [FOIA Request-2019-02446-F-Final Response.pdf](#)

Good Morning Ma'am

I am replying back to you in reference to your phone conversation yesterday. Ma'am this case was closed on 28 March 2019. An e-mail to that effect was sent to Mr. Walthall cc'd on this e-mail.

I have attached the final reply for you to review. As stated this office/agency is not the correct contact for any additional information you may be requesting on this case. Thank you for your time.

v/r

Cathy Calhoun, DAFC
FOIA/PA Manager
<https://efoia.milcloud.mil/palMain.aspx>
502 CS/SCOK-RND
151 J Street East
JBSA-Randolph TX 78154-4339
DSN 487-2165/Commercial (210) 652-2165
DSN 487-2172/Commercial (210) 652-2172
FAX (210) 652-8152
How are we doing? Please provide your comments on our Interactive Customer Evaluation (ICE) link is: <https://ice.disa.mil/index.cfm?fa=card&sp=109248&s=1024&dep=&sc=35>



Thomas J. Walthall, Jr.
Shareholder

*Board Certified, Construction Law
Texas Board of Legal Specialization*

twalthall@gardnertx.com

July 10, 2019

Indianapolis FOIA/PA Program Manager
502 CS/SCOKF
151 J. Street East, Bldg 990, Rm 124A,
JBSA - Randolph TX 78150

Via facsimile: 317-212-8802
and CMRRR 7018 3090 0002 0253 0727

Wright Patterson AFB FOIA Office
772nd Enterprise Sourcing Squadron/PKA
88 CS/SCOOIF (FOIA)
3810 Communications Blvd
WPAFB, OH 45433-5767

Via facsimile: 937-522-3096
and CMRRR 7018 3090 0002 0253 0734

772nd ESS/PKA

Via email: 772ess.ccworkflow@us.af.mil

RE: Freedom of Information Act Request for information concerning Contract No. FA3002-08-D-0015-TG13, Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX ("Project")
Our File No. 9299.011

To Whom It May Concern:

This firm represents HJD Capital Electric, Inc. ("HJD Capital"). Barlovento, LLC ("Barlovento") was the Prime Contractor under contract FA3002-08-D-0015-TG13 regarding the above-mentioned Project, and HJD Capital worked as Barlovento's subcontractor. We are writing in accordance with subsection C1.4.3 of DoD5400.7-R_AFMAN 33-302 and pursuant to the *United States Freedom of Information Act*. Accordingly, formal request is made for copies of the documents described in the attached Exhibit A.

We are happy to pay any reasonable costs of photocopying and sending us the requested information. If you anticipate the cost of such work will exceed \$500.00, please call me directly at (210) 733-8191 before proceeding.

Please contact me if you have any questions regarding this request. Your courtesy and cooperation in regard to this request is sincerely appreciated.

Very truly yours,

GARDNER LAW

Thomas J. Walthall, Jr.



July 10, 2019

Page 2 of 2

Exhibit A

Records Requested

The following documents are requested concerning:

Project: **Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX**
Contract No.: **FA3002-08-D-0015-TG13**
Prime Contractor: **Barlovento, LLC**

1. A true and correct copy of the Prime Contract between Barlovento and the U.S. Air Force for the Project.
2. Any change directive, modification, change, requested change, or requested modification or other communication, including letters, emails and text messages, between the U.S. Air Force and Barlovento related to adding, changing, modifying or removing telecommunications work, Division 27, from the Contractors' scope of work on the Project.
3. Any communication from the U.S. Air Force attempting to obtain compliant pricing from HJD Capital relating to telecommunications work on the Project and/or requiring Barlovento to submit a revised proposal with competitive pricing as to any telecommunications work on the Project.
4. Any communication from the U.S. Air Force related to the U.S. Air Force's selection of the bidder to provide the telecommunications package included in Modification No. 3 for the Project.
5. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project.
6. The vouchers, estimates, checks, or other evidence of the U.S. Air Force's payments to Barlovento in response to Barlovento's payment applications referred to in number 5, above.
7. Any communication from / to the U.S. Air Force related to conduit runs, whether flex or rigid, from cable tray to wall boxes in the following Project locations: All of the Offices in Area A - See A 10 I .A for all the office room numbers 1C03 in Area C, 1B14 and 1B20 in Area B, and 1D03, 1D04, 1D09, 1D10 in Area D.
8. Any RFI's submitted to the U.S. Air Force, and any responsive communications thereto related to conduit runs, whether flex or rigid, from cable tray to wall boxes in the following Project locations: All of the Offices in Area A - See A 10 I .A for all the office room numbers 1C03 in Area C, 1B14 and 1B20 in Area B, and 1D03, 1D04, 1D09, 1D10 in Area D.

From: [AUSTIN, BRIAN A SSgt USAF AFMC AFICA/PKS](#)
To: [Sarah K. Young](#)
Cc: [Kat Creekmore](#); [Jana Richard](#); [Thomas J. Walthall, Jr.](#); [CALHOUN, CATHY S GS-09 USAF AETC 502 CS/SCOKE](#); [COBURN, RAYMOND W CIV USAF AETC 502 CS/SCOK](#)
Subject: RE: FOIA Request for Information - FA3002-08-D-0015-TG13, Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX ("Project")
Date: Thursday, July 11, 2019 9:51:09 AM
Attachments: [image002.jpg](#)
[image003.jpg](#)
[FOIA Req. 3.pdf](#)

Good morning,

I received the attached this morning through our front office email. I would like to convey that you need to submit your FOIA request to the CC'd Ms. Cathy Calhoun/Mr. Raymond Coburn at the Official JBSA San Antonio FOIA office.

Brian Austin, SSgt, USAF
FOIA Monitor
772 ESS/PKA
Comm: 210-395-8684
DSN: 969-8684

From: Sarah K. Young <syoung@gardnertx.com>
Sent: Wednesday, July 10, 2019 3:58 PM
To: 772 ESS/CC Workflow <772ess.ccworkflow@us.af.mil>
Cc: Kat Creekmore <kcreekmore@gardnertx.com>; Jana Richard <jrichard@gardnertx.com>; Thomas J. Walthall, Jr. <twalthall@gardnertx.com>
Subject: [Non-DoD Source] FOIA Request for Information - FA3002-08-D-0015-TG13, Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX ("Project")

Good afternoon,

Please see the attached request for information pursuant to the Freedom of Information Act.

Thank you,

Sarah K. Young
Legal Coordinator

745 East Mulberry Avenue
Suite 500
San Antonio, TX 78212
(210) 733-8191
(210) 733-5538 (Fax)
syoung@gardnertx.com
www.gardnertx.com



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1.28.19.1

From: [CORBIN, TERESA L CIV USAF AFMC 88 CS/SCOOIF](#)
To: [Thomas J. Walthall, Jr.](#)
Cc: [OGLESBY, CARMEN Y CIV USAF AFMC 88 CG/SCOOIF \(FOIA\)](#)
Subject: FW: Request 2019-04315-F
Date: Monday, July 22, 2019 7:01:31 AM
Attachments: [Transfer Notification of FOIA 2019-04315-F \(194 KB\).msg](#)
[Walthall Certified Mail Original Request.pdf](#)

Mr. Walthall,

WPAFB has received your FOIA request by Fax, Certified Mail, and US Mail. Your request was assigned FOIA# 2019-04315-F.

On, 17 July (attached), and this morning, 22 July, I forwarded our notification of the transfer of your FOIA request to JBSA.

Your FOIA request has been transferred to *502 CS/SCOKF, JBSA - Randolph AFB TX*, they will contact you with their acknowledgement of the subject FOIA.

v/r

Teresa Corbin, Civ, DAF
WPAFB FOIA Analyst

From: teresa.corbin.1@us.af.mil <teresa.corbin.1@us.af.mil>
Sent: Monday, July 22, 2019 7:33 AM
To: twalthall@gardnertx.com
Cc: CORBIN, TERESA L CIV USAF AFMC 88 CS/SCOOIF <teresa.corbin.1@us.af.mil>; OGLESBY, CARMEN Y CIV USAF AFMC 88 CG/SCOOIF (FOIA) <carmen.oglesby@us.af.mil>
Subject: Request

Dear Mr. Walthall,

This responds to your 10-Jul-19, Freedom of Information Act (FOIA) request 2019-04315-F received on 17-Jul-19], which seeks the following:

Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX FA3002-08-D-0015-TG13 Barlovento LLC See Attached for request details

The records you requested are maintained by another organization; therefore, we have referred/transferred your request to 502 CS/SCOKF, JBSA - Randolph AFB TX for processing and direct response to you. Please contact that office directly if you have questions regarding this request. Their contact information follows:

502 CS/SCOKF (FOIA Office), 151 J. Street East, Bldg 990, Rm 124A, **JBSA - Randolph TX 78150.**
COMM: 210.652.2165

Mail to: 502 CS/SCOKF (FOIA Office), 151 J. Street East, Bldg 990, Rm 124A, JBSA - Randolph TX 78150.

COMM: 210.652.2165 **Fax:** (210) 652-8152 **Email:** 502CS.FOIAandPAworkflow.workflow@us.af.mil

Direct questions regarding this action to 502CS.FOIAandPAworkflow.workflow@us.af.mil or call 210.652.2165 and reference FOIA case number 2019-04315-F.

Sincerely,



//Signed//

TERESA CORBIN, Civ, DAF
WPAFB FOIA Analyst

From: [MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK](#)
To: [Thomas J. Walthall, Jr.](#)
Subject: FOIA Request # 2019-04315-F
Date: Monday, August 5, 2019 3:57:04 PM
Attachments: [Tab 2 Mr. Walthall FOIA Request, 10 July 2019.pdf](#)
[Tab 2a. Mr. Walthall FOIA Request, 23 Jan 18.pdf](#)

Mr. Walthall,

In regards to your 10 July 2019 request, we noticed that some of the items are a duplicate to a previous request (2018-01312-F), that was previously worked by my co-worker, Ms. Calthy Calhoun. So Items 1, 2, 5, and 6 were previously requested and provided to you.

However, in your new request, Items 3,4, 7 and 8 (all the updates) are too broad and I need you to be more specific and provide a name or section of who you are referring to when asking for this information. When you say "Any communication from the U.S. Air Force", we need to know an individual, not just an organization because that is too broad of a statement". That goes for Items, 3, 4 and 7. In Item 8, you stated "Any RFI's submitted to the U.S. Air Force, an any responsive communication", again that's too broad and you need to narrow down the scope so we can have a better idea of where to search for these records.

Please provide a response back to me NLT Wednesday, 7 August at noon (CST). As of right now your request has been placed **ON HOLD** until I get more clarification.

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
502 CS/SCOK-Randolph
151 J Street East
JBSA-Randolph TX 78150-4342
DSN: 487-2186/2165
Comm: (210) 652-2186/2165
Fax (210) 652-8152
FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>



From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
To: Jana Richard
Cc: Thomas J. Walthall, Jr.
Subject: RE: FOIA Request # 2019-04315-F
Date: Thursday, August 8, 2019 11:04:50 AM

Ms. Richard,

So after getting off the phone with you and asking around my office since I wasn't working in this office when this case was originally sent over, your office should have received the contact information to DFAS to request the information of your request that the Air Force couldn't answer.

I am sending over the contact information to forward to DFAS so you can get the information below:

5. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project
6. The vouchers, estimates, checks, or other evidence of the U.S. Air Force's payments to Barlovento in response to Barlovento's payment applications referred to in number 5, above.

This should have been sent to you previously from your original request, but if not, this is where you need to send your request to for them two items mentioned above. Sorry we keep sending to you other agencies to assist you but just want to make sure you get the information you are requesting.

DFAS records are decentralized so if you know which location maintains the records, send your request to the location directly. If you don't know where the record is maintained, send your request to the FOIA/PA Program Manager's Office. Where to send a FOIA/PA request:

Indianapolis FOIA/PA Program Manager
8899 East 56th Street
Indianapolis, IN 46249-0150
Office: 317-212-4591
Fax: 317-212-8802
Active Duty Army, Air Force, Reserve, Guard, Civilian payroll records, and other Agency reports, vouchers, contracts, etc

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
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JBSA-Randolph TX 78150-4342
DSN: 487-2186/2165
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FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>



From: Sarah K. Young <syoung@gardnertx.com>
Sent: Thursday, August 8, 2019 9:35 AM
To: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK <tabatha.matthew.1@us.af.mil>; Jana Richard <jrichard@gardnertx.com>
Cc: Thomas J. Walthall, Jr. <twalthall@gardnertx.com>
Subject: [Non-DoD Source] RE: FOIA Request # 2019-04315-F

Good morning,

I'm sending your request for clarification to one of our attorneys, Jana Richard. She will be in touch with you to answer any questions you may have.

Thank you,

Sarah Young
Legal Coordinator
Gardner Law
745 E Mulberry Ave, Ste 500
San Antonio, TX 78212
(210) 733-8191 | (210) 733-5538 (Fax)
www.gardnertx.com

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK <tabatha.matthew.1@us.af.mil>
Sent: Thursday, August 8, 2019 7:57 AM
To: Sarah K. Young <syoung@gardnertx.com>
Subject: FW: FOIA Request # 2019-04315-F

Ms. Young,

I saw your name in an email that I sent over to your office and I was wondering if you could assist me or if I needed to wait until next week for a response. I had questions about a FOIA that was submitted by your office. The FOIA has been placed on hold until I get some clarification.

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
502 CS/SCOK-Randolph
151 J Street East
JBSA-Randolph TX 78150-4342
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☎ Fax (210) 652-8152
FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
Sent: Thursday, August 8, 2019 7:36 AM
To: 'twalthall@gardnertx.com' <twalthall@gardnertx.com>
Subject: FW: FOIA Request # 2019-04315-F

Mr. Walthall,

Just doing a follow-up to my email below because I didn't get a response back from you and your request is currently "**On Hold**" until I receive a response back from you in regards to the questions I had below.

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
502 CS/SCOK-Randolph
151 J Street East
JBSA-Randolph TX 78150-4342
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☎ Fax (210) 652-8152
FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
Sent: Monday, August 5, 2019 3:47 PM
To: twalhall@gardnertx.com
Subject: FOIA Request # 2019-04315-F

Mr. Walthall,

In regards to your 10 July 2019 request, we noticed that some of the items are a duplicate to a previous request (2018-01312-F), that was previously worked by my co-worker, Ms. Calthy Calhoun. So Items 1, 2, 5, and 6 were previously requested and provided to you.

However, in your new request, Items 3,4, 7 and 8 (all the updates) are too broad and I need you to be more specific and provide a name or section of who you are referring to when asking for this information.

When you say "Any communication from the U.S. Air Force", we need to know an individual, not just an organization because that is too broad of a statement". That goes for Items, 3, 4 and 7. In Item 8, you stated "Any RFI's submitted to the U.S. Air Force, an any responsive communication", again that's too broad and you need to narrow down the scope so we can have a better idea of where to search for these records.

Please provide a response back to me NLT Wednesday, 7 August at noon (CST). As of right now your request has been placed **ON HOLD** until I get more clarification.

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
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JBSA-Randolph TX 78150-4342
☎ DSN: 487-2186/2165
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FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
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Sarah K. Young
Legal Coordinator

745 East Mulberry Avenue
Suite 500
San Antonio, TX 78212
(210) 733-8191
(210) 733-5538 (Fax)
syoung@gardnertx.com
www.gardnertx.com

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Circular 230 Notice: Pursuant to requirements related to practice before the Internal Revenue Service, any tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the United States Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

1.28.19.1

Thomas J. Walthall, Jr.
Shareholder

*Board Certified, Construction Law
Texas Board of Legal Specialization*

twalthall@gardnertx.com

August 8, 2019

Indianapolis FOIA/PA Program Manager
8899 East 56th Street
Indianapolis, IN 46249-0150

Via facsimile: 317-212-8802
and CMRRR 7018 3090 0002 0253 0826

RE: Freedom of Information Act Request for information concerning Contract No. FA3002-08-D-0015-TG13, Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX ("Project")
Our File No. 9299.011

To Whom It May Concern:

This firm represents HJD Capital Electric, Inc. ("HJD Capital"). Barlovento, LLC ("Barlovento") was the Prime Contractor under contract FA3002-08-D-0015-TG13 regarding the above-mentioned Project, and HJD Capital worked as Barlovento's subcontractor. We are writing in accordance with subsection C1.4.3 of DoD5400.7-R_AFMAN 33-302 and pursuant to the *United States Freedom of Information Act*. Accordingly, formal request is made for copies of the documents described in the attached Exhibit A.

We are happy to pay any reasonable costs of photocopying and sending us the requested information. If you anticipate the cost of such work will exceed \$500.00, please call me directly at (210) 733-8191 before proceeding.

Please contact me if you have any questions regarding this request. Your courtesy and cooperation in regard to this request is sincerely appreciated.

Very truly yours,

GARDNER LAW



Thomas J. Walthall, Jr.



August 8, 2019

Page 2 of 2

Exhibit A

Records Requested

The following documents are requested concerning:

Project: **Renovate Building 313, Joint Base San Antonio, JBSA-Lackland AFB, TX**
Contract No.: **FA3002-08-D-0015-TG13**
Prime Contractor: **Barlovento, LLC**

1. A true and correct copy of the Prime Contract between Barlovento and the U.S. Air Force for the Project.
2. Any change directive, modification, change, requested change, or requested modification or other communication, including letters, emails and text messages, between the U.S. Air Force and Barlovento related to adding, changing, modifying or removing telecommunications work, Division 27, from the Contractors' scope of work on the Project.
3. Any communication from the U.S. Air Force attempting to obtain compliant pricing from HJD Capital relating to telecommunications work on the Project and/or requiring Barlovento to submit a revised proposal with competitive pricing as to any telecommunications work on the Project.
4. Any communication from the U.S. Air Force related to the U.S. Air Force's selection of the bidder to provide the telecommunications package included in Modification No. 3 for the Project.
5. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project.
6. The vouchers, estimates, checks, or other evidence of the U.S. Air Force's payments to Barlovento in response to Barlovento's payment applications referred to in number 5, above.
7. Any communication from / to the U.S. Air Force related to conduit runs, whether flex or rigid, from cable tray to wall boxes in the following Project locations: All of the Offices in Area A - See A 10 I .A for all the office room numbers 1C03 in Area C, 1B14 and 1B20 in Area B, and 1D03, 1D04, 1D09, 1D10 in Area D.
8. Any RFI's submitted to the U.S. Air Force, and any responsive communications thereto related to conduit runs, whether flex or rigid, from cable tray to wall boxes in the following Project locations: All of the Offices in Area A - See A 10 I .A for all the office room numbers 1C03 in Area C, 1B14 and 1B20 in Area B, and 1D03, 1D04, 1D09, 1D10 in Area D.

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
To: [Jana Richard](#); [Thomas J. Walthall, Jr.](#)
Subject: RE: FOIA Request # 2019-04315-F
Date: Wednesday, September 18, 2019 10:42:58 AM

Mr. Walthall and Ms. Richard,

Based on the information you have requested, we placed your request in the **Complex** processing track. A complex request can take substantial time and cause significant impact on responding units. Complications and delays are likely. Records sought are massive in volume. Multiple organizations must review/coordinate on requested records. Records are classified; originated with a nongovernment source; are part of the Air Force's decision-making process; or are privileged.

We estimate we will provide a response to your request within 30 working days. Our policy is to process requests within their respective tracks in the order in which we receive them. FOIA requests are processed as quickly as possible. We will advise you if we cannot provide a response within the FOIA statutory timeline.

I just wanted to provide you an update that due to the voluminous records, we are still working your request and going to need additional time to gather all the information. Once we have your finalized documents, we will get your package over to you.

If you have any questions regarding your request, please feel free to contact me.

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
502 CS/SCOK-Randolph
151 J Street East
JBSA-Randolph TX 78150-4342
☎ DSN: 487-2186/2165
☎ Comm: (210) 652-2186/2165
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FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>
FOIA & PA SharePoint:
https://jbsa.eis.aetc.af.mil/502isg/502cs/SCO/Knowledge_Management_Center/FOIA_PA/Customer_Account/Forms/AllItems.aspx

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
Sent: Thursday, August 8, 2019 11:03 AM
To: Jana Richard <jrichard@gardnertx.com>
Cc: Thomas J. Walthall, Jr. <twalthall@gardnertx.com>
Subject: RE: FOIA Request # 2019-04315-F

Ms. Richard,

So after getting off the phone with you and asking around my office since I wasn't working in this office when this case was originally sent over, your office should have received the contact information to DFAS to request the information of your request that the Air Force couldn't answer.



I am sending over the contact information to forward to DFAS so you can get the information below:

5. Barlovento's applications for payment, including all attachments and certifications, to the U.S. Air Force for the Project

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Indianapolis FOIA/PA Program Manager
8899 East 56th Street
Indianapolis, IN 46249-0150
Office: 317-212-4591
Fax: 317-212-8802
Active Duty Army, Air Force, Reserve, Guard, Civilian payroll records, and other Agency reports, vouchers, contracts, etc

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
502 CS/SCOK-Randolph
151 J Street East
JBSA-Randolph TX 78150-4342
DSN: 487-2186/2165
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Fax (210) 652-8152
FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>

From: Sarah K. Young <syoung@gardnertx.com>
Sent: Thursday, August 8, 2019 9:35 AM
To: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK <tabatha.matthew.1@us.af.mil>; Jana Richard <jrichard@gardnertx.com>
Cc: Thomas J. Walthall, Jr. <twalthall@gardnertx.com>
Subject: [Non-DoD Source] RE: FOIA Request # 2019-04315-F

Good morning,

I'm sending your request for clarification to one of our attorneys, Jana Richard. She will be in touch with you to answer any questions you may have.

Thank you,

Sarah Young
Legal Coordinator
Gardner Law
745 E Mulberry Ave, Ste 500
San Antonio, TX 78212
(210) 733-8191 | (210) 733-5538 (Fax)
www.gardnertx.com

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK <tabatha.matthew.1@us.af.mil>
Sent: Thursday, August 8, 2019 7:57 AM
To: Sarah K. Young <syoung@gardnertx.com>
Subject: FW: FOIA Request # 2019-04315-F

Ms. Young,

I saw your name in an email that I sent over to your office and I was wondering if you could assist me or if I needed to wait until next week for a response. I had questions about a FOIA that was submitted by your office. The FOIA has been placed on hold until I get some clarification.

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FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
Sent: Thursday, August 8, 2019 7:36 AM
To: 'twalthall@gardnertx.com' <twalthall@gardnertx.com>
Subject: FW: FOIA Request # 2019-04315-F

Mr. Walthall,

Just doing a follow-up to my email below because I didn't get a response back from you and your request is currently **"On Hold"** until I receive a response back from you in regards to the questions I had below.

Very Respectfully,

Tabatha D. Matthew, GS-09, DAF
JBSA FOIA/PA Manager
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FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>

From: MATTHEW, TABATHA D GS-09 USAF AETC 502 CS/SCOK
Sent: Monday, August 5, 2019 3:47 PM
To: twalhall@gardnertx.com
Subject: FOIA Request # 2019-04315-F

Mr. Walthall,

In regards to your 10 July 2019 request, we noticed that some of the items are a duplicate to a previous request (2018-01312-F), that was previously worked by my co-worker, Ms. Calthy Calhoun. So Items 1, 2, 5, and 6 were previously requested and provided to you.

However, in your new request, Items 3,4, 7 and 8 (all the updates) are too broad and I need you to be more specific and provide a name or section of who you are referring to when asking for this information. When you say "Any communication from the U.S. Air Force", we need to know an individual, not just an organization because that is too broad of a statement". That goes for Items, 3, 4 and 7. In Item 8, you stated "Any RFI's submitted to the U.S. Air Force, an any responsive communication", again that's too broad and you need to narrow down the scope so we can have a better idea of where to search for these records.

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Tabatha D. Matthew, GS-09, DAF
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FOIA & PA Org Box Email: 502CS.FOIAandPAWorkflow.Workflow@us.af.mil
PAL: <https://efoia.milcloud.mil/App/Index.aspx>

Sarah K. Young
Legal Coordinator

745 East Mulberry Avenue
Suite 500
San Antonio, TX 78212
(210) 733-8191
(210) 733-5538 (Fax)
syoung@gardnertx.com
www.gardnertx.com

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1.28.19.1



DEFENSE FINANCE AND ACCOUNTING SERVICE
8899 EAST 56TH STREET
INDIANAPOLIS, IN 46249-0201

September 25, 2019

Thomas J. Walthall, Jr.,
745 East Mulberry Ave, Suite 500
San Antonio, TX 78212-3154

Dear Mr. Walthall Jr.,

This is a response to a Freedom of Information Act that we received from you on August 13, 2019 where you requested information on Contract No. FA3002-08-D-0015- TG13. Your request was given control number 19-HQ-0932. Please refer to this number when inquiring about our request.

A search was conducted for requested records and the findings are listed below:

Item 1. No record

Item 2. No Record

Item 3. No Record

Item 4. No Record

Item 5. No Record

Item 6. Released in Part: The enclosed documents that originated with our agency, responsive to your request, is part of a system of records exempt from the disclosure provisions of the Freedom of Information Act (FOIA). Personal information such as names and telephone numbers has been withheld. Removal of this information constitutes a partial denial pursuant to Title 5 U.S.C. §552, Exemption (b)(6) of the FOIA, information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Additionally, bank account information has been withheld. Removal of this information constitute a partial denial pursuant to Title 5 U.S.C. §552, Exemption (b)(4) trade secrets and commercial or financial information obtained from a private source which would cause substantial competitive harm to the source if disclosed.

Item 7. No Record

Item 8. No Record

Because your request has been denied in part, you are advised of your right to appeal this determination in writing to the agency appellate authority, Director, Corporate Communications. Please send any appeal to: DFAS-ZCF/IN, 8899 E. 56th Street, Indianapolis, IN 46249-0150. Your appeal must be postmarked within 90 calendar days from the date of this letter to be

Proudly Serving America's Heroes

www.dfas.mil

EXHIBIT

N

considered. A statement as to why your appeal should be granted should be included and enclosed copy of this letter should be attached. Both the appeal letter and the envelope should bear the notation, "Freedom of Information Act Appeal." Any questions concerning this matter should be directed to me at the following number, (317)212-4591, as I am the official responsible for the partial denial of your request.

Sincerely,

Gregory L. Outlaw
Gregory L. Outlaw
FOIA/PA Program Manager
Corporate Communications